

**BOARD OF ENVIRONMENTAL REVIEW**  
**AGENDA ITEM**  
**EXECUTIVE SUMMARY FOR ACTION ON RULE AMENDMENTS**

**Agenda # III.A.4.**

**Agenda Item Summary:** The Board has proposed amending the air quality rules to establish a general registration system and to apply that system to oil and gas well facilities.

**List of Affected Rules:** ARM 17.8.504, 17.8.505, and 17.8.744. The proposed new rules would be codified in a new subchapter of ARM Title 17, chapter 8.

**Affected Parties Summary:** The proposed amendments and new rules could affect all oil and gas well facilities regulated by the Department under the air quality rules.

**Scope of Proposed Proceeding:** The Board is considering final action on the adoption and amendment of the above-referenced rules as proposed in the Montana Administrative Register.

**Background:** The proposed amendments to existing rules and adoption of new rules would implement a registration system for certain facilities that presently require an air quality permit. The proposed new rules would establish a general registration system and would establish rules that apply the system to oil and gas well facilities. Currently, with specified exemptions, the administrative rules adopted under the Clean Air Act of Montana require the owner or operator of sources of air pollution to obtain a permit prior to construction or operation. House Bill 700, passed by the 2003 Montana Legislature and codified as 75-2-234, MCA, allows the Board to adopt a registration system in lieu of permitting.

The proposed new rules would provide a system for the owner or operator of a facility to register with the Department in lieu of submitting a permit application and obtaining a permit. The owner or operator of a registered facility still would be required to supply information that is consistent with the type and amount of information currently required in a permit application. Registered facilities still would be required to follow rules of operation that are similar to permit conditions. These rules of operation would include emission limitations, air pollution control equipment installation and operation requirements, and requirements for testing, monitoring and reporting. The registered facilities still would be required to comply with any other applicable requirements not listed within the new rules, such as ambient air quality standards, reasonable precautions standards, opacity standards, etc.

Registration in lieu of permitting is appropriate for source categories in which there are a large number of homogenous sources subject to identical requirements and for which there is no substantial benefit from individual permitting. For these homogenous facilities the permit conditions and environmental impact vary little from facility to facility. Oil and gas well facilities fit into this category of sources. Implementing a registration system would allow the Department to use air program staff more efficiently, focusing on major source permitting issues and field compliance activities.

The new rules would include requirements for emission control and operating limitations when necessary. Recordkeeping and reporting requirements would also be required as part of the registration program. This rulemaking process, and any future rulemaking to include

additional source categories in the registration system, will provide the opportunity for public comment.

New Rules I through V would provide general facility registration information including definitions, applicability, a description of the registration process and the information that must be provided, and a cross-reference to ARM 17.8.504 for the registration fee.

New Rules VI-IX would apply specifically to oil and gas well facilities and contain additional requirements that they would be required to comply with through the registration process. The Department is proposing the oil and gas well facility registration rules as an alternative to regulating the large number of oil and gas well facilities that are currently required to obtain a Montana Air Quality permit, which requires lengthy review of permit applications and preparation of draft and final permits. The registration process would allow the Air Resources Management Bureau to focus on establishing appropriate air pollution control requirements for other sources that require individual permitting and focus on monitoring compliance, while reducing the administrative overhead for both the regulated entities and the Department. This registration approach is necessary to allow the Department to maintain the current level of environmental protection without significantly increasing current staffing levels.

New Rule VI would include the general requirements for a registered oil or gas well facility, and New Rule VII would provide the requirements for emission controls. Oil and gas well facilities also would be required to conduct leak checks and repair any leaks under specified timeframes; these requirements are included in New Rule VIII. New Rule IX would include additional recordkeeping and reporting requirements for an oil or gas well facility. Air pollution control and monitoring, recordkeeping, and reporting requirements would be substantially the same under the registration process as under traditional permitting.

The Department is proposing that the Board amend ARM 17.8.504 and 17.8.505 to require the owner or operator of a registered facility to pay a registration fee in lieu of a Montana Air Quality Permit application fee and pay an annual operation fee. These fees would be the same as the air quality permit application and annual operation fees. The Department is proposing that the Board amend ARM 17.8.744 to exclude registered facilities from the requirement to obtain a Montana Air Quality Permit.

**Hearing Information:** Katherine Orr conducted a public hearing on January 23, 2006, on the proposed amendments and adoption. The public comments received and the Department's proposed responses are included, respectively, with the Hearing Officer Report and the draft Notice of Amendment attached to this executive summary.

**Board Options:** The Board may:

1. Adopt the proposed amendments as set forth in the attached Notice of Public Hearing on Proposed Amendment;
2. Adopt the proposed amendments with revisions that the Board finds are appropriate and that are consistent with the scope of the Notice of Public Hearing on Proposed Amendment and the record in this proceeding; or
3. Decide not to adopt the amendments and new rules.

**DEQ Recommendation:** The Department recommends that the Board adopt the proposed amendments and new rules, with the revisions shown in the attached draft Notice of Amendment and Adoption.

**Enclosure:**

1. Notice of Public Hearing on Proposed Amendment and Adoption;
2. Hearing Officer Report; and
3. Draft Notice of Amendment and Adoption.